

OPEN MEETING AGENDA ITEM



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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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ARIZONA CORP. COMM
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Docket No. L-00000F-09-0190-00144

Case No. 144

IN THE MATTER OF THE APPLICATION OF UNS ELECTRIC, INC. FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY FOR THE VAIL TO VALENCIA 115 KV TO 138 KV TRANSMISSION LINE UPGRADE PROJECT, ORIGINATING AT THE EXISTING VAIL SUBSTATION IN SEC. 4, T.16S., R.15E., PIMA COUNTY, TO THE EXISTING VALENCIA SUBSTATION IN SEC. 5, T.24S., R.14E., IN THE CITY OF NOGALES, SANTA CRUZ COUNTY, ARIZONA.

Notice of Filings of

REQUEST FOR REVIEW AND EXCEPTIONS TO THE
CERTIFICATION OF ENVIRONMENTAL COMPATIBILITY IN ARIZONA POWER PLANT AND TRANSMISSION LINE
SITING CASE NO. 144

28 July 2009

This filing consists of a request for review of the Certification of Environmental Compatibility (CEC) and preliminary Exceptions for consideration by the Commission.

Mailed to all parties and dated this 28th day of July 2009.

Respectfully submitted,

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Request for Review and Exceptions
to the CEC in Line Siting Case No. 144

1. Background. (*UNS Taken from Exhibit 1 Application-Introduction-Page 1*) - The Vail to Valencia 115kV to 138 kV Transmission Line Upgrade Project ("Project") upgrades the existing line that serves Santa Cruz County customers of UNS Electric, Inc. ("UNS Electric").
2. Areas of Concern:
 - a. ACC Staff did not intervene in a case that involves approximate 50 miles.
 - b. The use of the word "Upgrade" is very misleading to the public; specifically in the segment known as Segment 1A at the northern end of the project where both the preferred and alternative alignments would involve entirely new construction to change from the existing interconnection at the Nogales Tap to the Vail Substation.
 - c. Lack of aggressive and upfront public outreach to TEP customers and Vail/Corona/Rita Ranch residents by the Applicant-to include the omission of a public meeting in the Vail/Corona/Rita Ranch area. This is after Chairman Mayes directive in Line Site Case 137 Special Open Hearing 8/18/08 Page 262 Lines 8-11 "*And I hope that the company has learned a lot. There has to be aggressive, upfront outreach to communities on all of these line siting cases*" and Commissioner Mundell "*And then I would also say that the public outreach needs to be perfected*" (Special Open Hearing 8/18/08 Page 265 Lines 18 & 19) and in regard to renewables "*And so having said that, we still need to plan long term*" Special Open Hearing 8/18/08 Page 266 Lines 10 & 11). This project did not acknowledge future planning in the vicinity of the project when providing public outreach.
 - d. Lack of notification to two communities north of the proposed project-Voyager RV Resort and Trails West - when residences further from the project south of Segment 1A and 1B were sent newsletters. (*Exhibit EW-17B*) (*can be found at docket control <http://images.edocket.azcc.gov/docketpdf/0000099585.pdf>*)
 - e. Exclusion during Agency and Stakeholder meetings of Community Associations registered with Pima County in the direct vicinity and within 2 miles of the area known as Segment 1 A on the northern portion of the project. (*Exhibit EW-17A*) (*Can be found at Docket Control <http://images.edocket.azcc.gov/docketpdf/0000099585.pdf>*). Relevant as the Green Valley Community Coordinating Council and the Town of Sahuarita were consulted and neither are in the direct vicinity of the proposed project. The section known as 1B which is somewhat closer to those two communities but is not scheduled for any rebuilding aside from upgrading the voltage on the transmission line. Additionally, Open Houses were held in Green Valley. (*Exhibit UNS-1 Application-J-5 Open House #2 Materials and Exhibits & Exhibit UNS-1 Application-J-5 Open House #3 Materials and Exhibits*)
 - f. Vague, misleading ads concerning the project in advertised notice of Open Houses that were held in Tucson instead of the Vail/Corona/Rita Ranch area. (*Exhibit UNS-1 Application-J-5 Open House #2 Materials and Exhibits-Newspaper Announcements & Exhibit UNS-1 Application-J-5 Open House #3 Materials and Exhibits- Newspaper Announcements*). I personally knew of this project because the proposed Rosemont Copper project has the "Vail to Kantor" line listed as two of its preferred alternatives to receive power on its website. The Vail to Kantor line did not exist until the Committee granted the CEC. For this project I attended a meeting in Tubac in Santa Cruz County that is not listed in the application (*Exhibit EW-15 Page 2*) and subsequently attended both of the Tucson Open Houses. If I had depended on the newspaper to provide accurate information regarding this project I would not have any idea its magnitude as it was listed as a transmission line "upgrade" in order to help meet the growing demand for electricity in Santa Cruz County with no mention of TEP's involvement in the purchase of a large transformer needed for this project. Additionally, it was not until the third newspaper announcement that UNS Electric's website was even listed. (*Exhibit UNS-1 Application-J-5 Open House #3 Materials and Exhibits- Newspaper Announcements*)
 - g. Lack of documented information regarding the proposed Rosemont Copper Electric project. Mr. Larry Lucero representative for UNS Electric stated in his public outreach meeting on April 21st 2008 that questions regarding the Rosemont Copper project could be answered at the Line Siting Hearing. (*Exhibit EW- 15 P. 2*). Given the large number of docketed public comments regarding concern about Rosemont Copper and the "Vail to Kantor" line, why didn't the Applicant address this issue or enter into evidence a potential exhibit it had prepared?
 - h. Lack of appropriate outreach to governmental agencies involved or to be involved in the project (*Exhibit UNS 1 Exhibit J-2*). The Bureau of Land Management was excluded from the Agency Outreach letters even though according to the Applicant in the Application (Page 19) "*If the Preferred Alignment (North Route) in Segment 1A is approved in a CEC, UNS Electric will pursue an authorization across the BLM parcel along Wilnot Rd*". This lack of appropriate outreach caused additional delay and increased costs during the hearing. This is the second time when applying for a CEC in my Community where the Applicant did not interact in an upfront manner with the governmental organizations that would have significant impacts on potential issues related to this project. The first was in LS Case 137 when the County was not contacted'. '*But TEP never saw fit to take the load saturation to the county and present it to them before it went into the hearing. In fact, the county became aware of it, as I understand it, after it had been brought to the hearing as a hearing exhibit. (8/18/08)Special Open Hearing-Page 190-Lines 15-19*

- i. Additionally, the information given to Mr. John Hays during a meeting with UNS Electric did not accurately depict the "area of contention" in the area now known as the Mesquite Bosque in the Rio Rico area. (Exhibit EW-19L)
- j. Delayed, incomplete and vague responses involving data requests during discovery. I was not the only one who had difficulties with inaccurate or incomplete data responses. I watched in dismay as Mr. Magruder used an obsolete report provided to him by UNS Electric in one of its data responses. This inadequate outreach to governmental agencies and incomplete/inaccurate data responses prior to and during the hearings caused an additional \$40.00 - \$50.00 in printing/mailling and several hours of time for one exhibit alone. (Exhibit EW-18 a-f). This does not include the extra time and money spent on other data responses that were incomplete or on a large black and white map copied from a misrepresented color one used when UNS Electric visited flood control direct John Hays on June 10th 2009. (Exhibit EW-19L)
- k. Significantly changing proposed routes within the 500' corridor during rebuttal testimony without notifying private property owners who would be directly impacted. The centerline of the corridor alignment in the segment on the northern end of the project on the signed CEC is a point in the Nogales Tap on the east side of Wilmot Rd. According to testimony by Mr. Ed Beck of UNS Electric/TEP, the proposed alternative that would be presented to the Bureau of Land Management is approximately 150 feet or more to the west of the corridor centerline. (Pima County GIS maps)
- l. According to testimony by Mr. Ed Beck of UNS Electric/TEP, the proposed alternative that would be presented to the Bureau of Land Management as an alternative route to avoid crossing federal land and is a approximately a minimum of 150 feet to the west of the corridor centerline as written in the CEC. (Pima County GIS Maps) According to testimony on July 8th 2009 by Mr. Beck the owners of the property to the west of Wilmot had not been contacted regarding this change prior to his rebuttal testimony.²³ A representative for the property owner to the west had previously written a letter to the Applicant dated August 06, 2007 stating "Of specific concern is the fact that the proposed preferred alignment runs south along Wilmot Rd. adjacent to Section 12 of our Verano master planned community. It is **IMPERATIVE that this easement be set back a sufficient distance EAST of the ultimate Wilmot Road configuration**. While it is not our preferred option to have this power line run adjacent and the viewsheds of our two residential projects, we understand the rationale present by TEP, and **are not opposed, subject to addressing our Wilmot concerns**". (Exhibit UNS-1 Exhibit J-8 public responses)

Additionally, as an intervener, Mr. Beck's testimony on July 8th was not the response I received on my Data Response dated ²³ June 2009 (Exhibit EW-18E) when I inquired about alternatives that would be presented to BLM if the preferred alignment was chosen in Section 1A. The response I receive involved a "no action alternative" and the original alignment. If both sides of Wilmot road are considered the same alignment within the CEC due to the corridor width then west of Wilmot Rd it should not be allowed as an "alternate alignment" to present to BLM. The first I heard of this alternative on the west side of Wilmot Rd. was at the second set of hearings on July 8th and 9th 2009. It was not included in Mr. Beck's pre-filed rebuttal testimony and came as a complete surprise to me on July 8th 2009. This was not the only pertinent information on this subject that was not disclosed to me prior to Mr. Beck's rebuttal testimony.

- m. Lack of a field trip to the Northern portion of the project known as Segment 1A by the Committee. This is particularly worrisome as Section 1A is the only section where there is true new construction. It is an area that already suffers visual blight from cor-ten monopoles and steel lattice structures. It is an area where the upgrade performed from Decision 56097 did not have the same modern environmental considerations as more recent CECs and multiple access roads exist creating an opportunity for OHV use. According to Mr. Ed Beck during cross examination after his rebuttal testimony on July 8th 2009 the Applicant cannot be responsible for wildcat roads.²⁴ Big concern here. If the Company will not acknowledge it has responsibility for its OWN construction and access roads along existing transmission line routes, how can we be assured that it will mitigate any new construction? The applicant applied for a CEC to upgrade the voltage on the transmission line in Segment 1B where it was rebuilt after the 1988 Decision-not just the segments north and south of the area known as Segment 1B. (Exhibit UNS-1 Application, Introduction, Page 1, Paragraph 1)

Additionally, according to the applicant, Tucson Electric Power is going to hold responsibility for the majority of the cost for the 345kVa transformer needed at the Vail Substation for this project. This was not disclosed to the public prior to the hearings and I had not heard of it myself until Mr. Beck of UNS Electric/TEP described it in his direct testimony and during my cross examination during the first set of hearings. This places any new projects associated with the new transformer at the Vail Substation well within the realm of responsibility of the Committee and the Commission in Line Site Case 144. For UNS Electric/TEP to exclude this information when doing public outreach is another example of unreliable practices. On a broad scale our Community will have more cumulative environmental and ecological impacts associated with this project it than another other-given the future and foreseeable projected projects associated with the Vail Substation.

- n. The vast number of developments by private entities in the vicinity of the project. UNS Electric applied for this CEC. There were seventeen projects associated with the Vail Substation in the next 25 years-14 of them exclusive TEP projects. These are noted in my supplemental Data Response (Exhibit EW-7) from Mr. Ed Beck when it was supplemented after the first data response was inaccurate. Unfortunately, this data response was inaccurate also. The Tortolita to Vail Substation 345kVa line listed in the 2008 BTA was excluded. In addition to the projects associated with the Vail Substation, SWTC-Trico has plans for a new substation in

New Tucson-to the east of this project but within the Community boundaries of the Vail School District. (Exhibit EW-12) TEP has the proposed Rosemont Copper Mine Electric project in the stakeholder processes and it is in the immediate vicinity of this project. Excluding any potential renewable projects as mentioned by Mr. Ed Beck during the first three days of the hearing and entered as Exhibit EW-11 and Exhibit EW 16 associated with the Vail or South Substation there are currently nineteen (19) projects planned that would impact our community in the next twenty five (25) years. Our community has an approximate population of 45 thousand residents of which a large percentage is served by SWTC-Trico and not TEP. (Exhibit EW-17C1 and C2)

- o. Size of signs for notification of the project. The signs in place for the last project granted a CEC in this area are virtually unreadable due to the location and font size. Additionally, they look very similar to Arizona State Trust land signs. (Exhibit EW-19E) It is unclear what the size of a normal roadway sign is and this subjective judgment is left to the Applicant.
- p. Lack of project Archeologist. This area, to include the previously built section in Segment 1B, is rich in cultural and archeological history. Pima County commented that "Aside from surveys associated with the I-19 Corridor, little previous survey has been done in the vicinity of the alignment in Santa Cruz County." ...These data combine to indicated that the UNS Electric Inc. Vail to Valencia 115 kV Upgrade Project has an excellent potential to impact known and as yet unknown cultural and historic resources" (UNS-1 Application J-1 Federal, State and Local Agency Notification Letter and Responses-Pima County)
- q. Appropriate monopole color finish in areas dominated by a sky or looming mountain background and placement of dull grey galvanized monopoles next to existing galvanized steel lattice structures. There has been serious consideration of using dulled-gray galvanized poles in areas where the sky dominates the background and the weatherized dark brown monopoles in areas where a dark background is observed by a majority of the viewing public. This approach considers the difference in contrast between the foreground (pole) and natural background. The company has not yet proposed which of these two finishes have been selected along the approved alignment. There are several docketed comments on appropriate monopole color from members of the public.
- r. Member Mundell offered me an opportunity to ask for the addition of a local quasi –governmental organization to the CEC notification. Unfortunately I was not prepared for this question and did not answer appropriately as our area does not have one specific organization. I have since thought of a few.

3. **Preliminary Exceptions-
Exception One.**

- a. Objective. To create a Citizens' Advisory Council that would mirror or be similar in nature to the Southeast Arizona Transmission Study (SATS) group referenced in the BTA to work on regional and transmission planning with the Companies.
- b. Purpose. The avoidance of piecemeal planning with the public and impacted Communities as currently exists. To save time and costs at Line Site hearings by ensuring that accurate information is provided to the public during construction of this line and further projects associated with the Vail Substation. To assure that the Companies follow the directives of the Commission to perform aggressive and upfront outreach to impacted Communities. To avoid blind sighting communities about future planned projects at the hearings themselves. This has now happened in two consecutive line site cases in our Community. **There are several docketed public comments from the public on this idea to involve the Community in planning with the Companies.**

Exception Two

Objective. To provide a notification sign regarding the project that is reasonable size given different situations.

Exception Three

Objective. To provide for an on-site archeologist in the CEC to offset the "excellent potential to impact known and as yet unknown cultural and historic resources"

Exception Four

Objective. To add a few pertinent Community Organizations to the CEC Notification list

Exception Five

Objective. To add language to the CEC that would include the same environmental protections in the previously rebuilt portion of the line in the segment known as 1B.

Should my Request for Review be accepted by the Commission, I am reserving the right to add other relevant exceptions to my brief if one will be requested or during oral testimony at the Open Hearings in front of the Commission. Thank you for your consideration-Elizabeth Webb